

REMARKS

This Amendment is in response to the Office action dated October 3, 2006 and accompanies an Interview Summary and a petition for a three month's extension of time to April 3, 2007. Applicants would like to thank the Examiner for taking the time to discuss the claims and the cited references.

Claims 1-18 remain pending in the application. The invention set forth by claims 1-9, 11-12, and 15-18 are alleged not to meet the requirements of 35 U.S.C. §103(a) as being unpatentable over U.S. Patent. No. 5,954,640 to Szabo (hereinafter "Szabo") in view of "Name Change Reflects CVS' Commitment to E-commerce," claim 10 is alleged not to meet the requirements of 35 U.S.C. §103(a) as being unpatentable over Szabo in view of Name Change and in further view of U.S. Patent. No. 5,845,255 to Mayaud, and claims 13 and 14 are alleged not to meet the requirements of 35 U.S.C. §103(a) as being unpatentable over Szabo in view of Name Change and in further view of U.S. 2001/0009005 to Goodin et al. The Applicants respectfully traverse the allegations and respond as follows.

A. Claims 1-18 Meet the Requirements of Section 103(a)

The Office action's reliance on Name Change is misplaced because the document is not an enabling disclosure of the invention encompassed by the pending claims. The document is merely a press release that provides no diagrams, flow charts, or other details of how the system functions. Name Change merely illustrates that CVS wanted to obtain the technology recited in the pending claims of the present application because it was most likely unable to develop the technology internally. However, Name Change does not provide any disclosure of how one of ordinary skill in the art would go about developing a system or method having the elements recited in the pending claims. Importantly, Name Change does not teach or suggest to one having ordinary skill in the art the elements set forth in the claims that are lacking from the Szabo, Mayaud and Goodin et al references, and as such, fails to enable these elements missing from the references.

In light of the fact that Name Change is not an enabling disclosure, Szabo, Mayaud, and Goodin et al. are the remaining cited prior art references. Each of the allegations of obviousness made in the Office action include Name Change. Because the Examiner admits that Szabo, Mayaud, and Goodin do not disclose each and every limitation of claims 1-18, the references do not render these claims unpatentable. Therefore, claims 1-18 are in allowable form.

Moreover, Applicants assert that the Szabo system does not disclose working with prescriptions and prescription drugs and overcoming the many regulatory and privacy issues associated therewith. In particular, Szabo does not disclose enabling a customer to access personal prescription history for the patient and specific drug information from a database, as well as transmitting a prescription order for a prescription drug.

Governmental regulations and best practices dictate the manner of operation of pharmacies and pharmaceutical distribution facilities to ensure the proper filling and distribution of pharmaceuticals by licensed pharmacists and technicians to customers. U.S. governmental regulations for operations in pharmacies and pharmaceutical distribution facilities, for example, are very rigid and controlled. This is due to the important role of these facilities in distributing prescription drugs to the U.S. population. Achieving efficient and effective compliance with the governmental regulations in pharmacies and pharmaceutical distribution facilities necessitates electronic systems such as those disclosed and claimed in the present application, which are markedly different from the systems disclosed in the cited art.

Filling a prescription with a wrong drug or even an incorrect dosage can have serious consequences. These are not the same consequences as when a nutritional supplement system incorrectly fills an order. Also, every pharmacy and pharmaceutical distribution facility must comply with HIPPA and other security requirements to ensure that patient's medical data cannot be accessed without proper authorization, which requirements are drastically different from dealing with nutritional supplement purchases. This is why the inventors of the present application sought to develop an electronic prescription ordering system that would reduce risks and ensure patient safety and privacy. Thus, as the applicants have explained, existing architectures have not met the needs of efficient, electronic ordering systems within a pharmacy environment.

C. Conclusion

In view of the above remarks, the Applicants respectfully request favorable re-consideration and passage to issuance of this application. The Applicants invite the examiner to contact the undersigned attorney with any questions regarding this response or the application as a whole. If there are any additional fees or refunds required, the Commissioner is directed to charge or debit Deposit Account No. 13-2855.

Dated: April 3, 2007

Respectfully submitted,

By 

Randall G. Rueth

Registration No.: 45,887

MARSHALL, GERSTEIN & BORUN LLP

233 S. Wacker Drive, Suite 6300

Sears Tower

Chicago, Illinois 60606-6357

(312) 474-6300

Attorney for Applicant